

Bureau of Land Management, Interior

§ 2627.4

act pending or approved, does not exceed 102,550,000 acres (400,000 acres where one of the grants for community purposes is involved).

(ii) A certificate by the selecting agent showing:

(a) That the selection is made under and pursuant to the laws of the State.

(b) The acreage selected and the cumulative acreage of all prior selection lists pending and finally approved for clear-listing or patenting.

(c) His official title and his authority to make the selection on behalf of the State.

(d) That no portion of the selected land is occupied for any purpose by the United States and that to the best of his knowledge and belief the land is unoccupied, unimproved, and unappropriated by any person claiming the land other than the applicant, and that at the date of the application no part of the land claimed or occupied under the mining laws.

(e) That the selected land does not extend more than 160 rods along the shore of any navigable water or that such restriction has been waived or should be waived. (§2094.2 of this chapter.)

(f) All the facts relative to medicinal or hot springs or other waters upon the selected lands.

(iii) If the selected lands are surveyed, the legal description of the lands in accordance with official plats of survey.

(iv) If the selected lands are unsurveyed and are described by approved protraction diagrams of the rectangular system of surveys, such description is required.

(v) If the selected lands are unsurveyed and are not described by approved protraction diagrams, a description of the lands and a map or maps, in duplicate, sufficient to permit ready identification of the location, boundaries, and area of the lands.

(2) Selections must be accompanied by a filing fee of \$10 for 5,760 acres or fraction thereof in the selection which fee is not returnable.

(3) All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved. A tract will not be considered compact if it ex-

cludes other public lands available for selection within its exterior boundary. Each tract selected shall contain at least 5,760 acres unless isolated from other tracts open to selection.

(4) If the selected lands are in the area north and west of the line described in section 10 of the Act, all selection made or confirmed by the act must be accompanied by a statement of the President or his designated representative showing that he approves the selection.

(5) Section 2627.3(a)(1) and (c)(1)(ii) do not apply to the extent that an application embraces a reserved or retained interest.

(d) *Effect of approval of selections.* Following the selection of lands by the State and the tentative approval of such selection by the authorized officer of the Bureau of Land Management, the State is authorized to execute conditional leases and to make conditional sales of such selected lands pending survey of the exterior boundaries of the selected area, if necessary, and issuance of patent. Said officer will notify the appropriate State official in writing of his tentative approval of a selection after determining that there is no bar to passing legal title to the lands to the State other than the need for the survey of the lands or for the issuance of patent or both.

§ 2627.4 All grants.

(a) *State preference right of selection: waivers.* (1) The Act of July 7, 1958 (see §2627.3(a)), provide that upon the revocation of any order of withdrawal in Alaska, the order of revocation shall provide for a period of not less than 90 days before the date on which it otherwise becomes effective during which period the State of Alaska shall have a preferred right of selection under the acts of 1956 and 1958, except as against prior existing valid rights, equitable claims subject to allowance and confirmation and other preferred rights of application conferred by law.

(2) Where the proper selecting agent of the State files in writing in the proper office a waiver of the preference provisions of paragraph (a) of this section in connection with the proposed revocation of an order of withdrawal,

the order affecting such revocation will not provide for such preference.

(b) *Segregative effect of applications.* Lands desired by the State under the regulations of this part will be segregated from all appropriations based upon application or settlement and location, including locations under the mining laws, when the state files its application for selection in the proper office properly describing the lands as provided in §2627.3(c)(1) (iii), (iv), and (v). Such segregation will automatically terminate unless the State publishes first notice as provided by paragraph (c) of this section within 60 days of service of such notice by the appropriate officer of the Bureau of Land Management.

(c) *Publications and protests.* (1) The State will be required to publish once a week for five consecutive weeks in accordance with §1824.4 of this chapter, at its own expense, in a designated newspaper, and in a designated form, a notice allowing all persons claiming the land adversely to file in the appropriate office their objections to the issuance of patent or certification for lands selected under the regulations of this part. A protestant must serve on the State a copy of the objections and furnish evidence of service to the proper office.

(2) The State must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

PART 2630—RAILROAD GRANTS

Subpart 2631—Patents for Lands Sold by Railroad Carriers (Transportation Act of 1940)

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2631.4 Patents.

Subpart 2631—Patents for Lands Sold by Railroad Carriers (Transportation Act of 1940)

AUTHORITY: R.S. 2478; 43 U.S.C. 1201.

SOURCE: 35 FR 9613, June 13, 1970, unless otherwise noted.

§ 2631.0–3 Authority.

Subsection (b) of section 321, Part II, Title III, of the Transportation Act of September 18, 1940 (54 Stat. 934; 49 U.S.C. 65), authorizes the issuance of patents for the benefit of certain innocent purchasers for value of land-grant lands from railroad carriers which have released their land-grant claims.

NOTE: Notices of releases of land grant claims by railroad carriers listing the carriers, the date of the approval of the release and the land-grant predecessors involved dated Dec. 17, 1940, May 17, 1941, and June 29, 1942, appear at 6 FR 449, 2634, and 7 FR 5319.

§ 2631.0–8 Lands for which applications may be made.

Subsection (b) of section 321, Part II, Title III, of the Transportation Act of 1940 provides that in the case of a railroad carrier, or a predecessor, which received a land grant to aid in the construction of any part of its railroad, the laws relating to compensation for certain Government transportation services shall continue to apply as though subsection (a) of section 321 had not been enacted unless the carrier shall file on or before September 18, 1941, with the Secretary of the Interior, in the form and manner prescribed by him, a release of any claim it may have to lands, interests in lands, compensation, or reimbursement on account of lands or interests in lands so granted, claimed to have been granted or claimed should have been granted. Section 321 provides further that nothing therein shall be construed as preventing the issuance of patents confirming the title to such uncertified or unpatented lands as the Secretary of the Interior shall find have been sold prior to September 18, 1940, to innocent purchasers for value. Subsection (b) of section 321 authorizing the issuance of such patents is not an enlargement of the grants, and does not extend them to lands not already covered thereby and, therefore, has no application to lands which for various reasons, such as mineral character, prior grants, withdrawals, reservations, or appropriation, were not subject to the grants. It does apply, however, to lands